AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1267 OF 2025

Abhijeet Appasaheb Khot ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. K.B. Murkute, for the Applicant.

Mr. Aadesh Konde Deshmukh,a/w Mr. Sainath Garade for respondent no.2.

Ms. Anagha Deshmukh , APP for the State-Respondent No.1.

Mr. Ghegadmal, API, EOW-3, Navi Mumbai.

CORAM : AMIT BORKAR, J.

RESERVED ON : OCTOBER 9, 2025

PRONOUNCED ON : OCTOBER 14, 2025

P.C.:

1. Apprehending arrest in connection with C.R. No. 0057 of 2025 registered with Kharghar Police Station, Navi Mumbai, for offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code, 1860, the applicant has preferred the present application seeking anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973.

2. As per the prosecution, Mr. Sandeep Ghevarchand Jain and his wife are engaged in the business of sale of computer parts under the name and style of Othree Systems and Solutions, Mumbai. During the course of this business, Mr. Jain came into contact with one Nilesh Pawar, who was associated with a Pune-based company, M/s. Wardwiz India Solutions Pvt. Ltd., whose directors are Abhijeet Khot and Dipesh Thakkar.

3. The complainant has alleged that Nilesh Pawar, who was the Sales Head of M/s. Wardwiz India Solutions Pvt. Ltd., along with the said directors, assured the complainant of distributorship of the company's products in the States of Kerala, Karnataka, Tamil Nadu, Andhra Pradesh, Telangana, and even in the country of Nepal. On this assurance, they induced the complainant to invest a total amount of Rs.10.60 crore between 12 October 2018 and 18 May 2019. It is alleged that after receiving the said amount, they repaid only a sum of Rs.26 lakh and failed to return the balance investment amount, thereby cheating the complainant.

4. Learned counsel for the applicant submitted that M/s. Wardwiz India Solutions Pvt. Ltd. is engaged in the manufacture and promotion of antivirus software for mobile phones and computers across India. The applicant was one of the directors of the company and was responsible for the manufacturing and sale of antivirus kits, whereas the other co-accused were responsible for marketing and distribution. It is stated that the complainant was appointed as a distributor for the States of Kerala, Tamil Nadu, Andhra Pradesh, and Telangana by accused No. 3. The applicant contends that he never received an amount of Rs.10.34 crore as alleged, but in fact paid Rs.9,02,75,449 to the complainant. A settlement agreement was arrived at for Rs.7,04,80,205, and the applicant has already paid Rs.30 lakh under that agreement. The remaining amount of Rs.6,74,80,205 is yet to be cleared. The applicant expresses willingness to amicably settle the matter with the complainant.

5. In reply, learned counsel for the complainant submitted that the applicant and his co-accused jointly induced the complainant to invest Rs.8.76 crore in M/s. Wardwiz India Solutions Pvt. Ltd. under the pretext of granting distributorship rights for antivirus software in several States and Nepal. It is contended that despite entering into settlement agreements, the applicant deliberately breached the same, diverted the complainant's investment into unrelated ventures such as V.T. Infra, and made high-value purchases. The conduct of the applicant is stated to be fraudulent and habitual. Multiple FIRs have been registered against him in different States for similar offences, including FIR No.74 of 2021 at Koramangala Police Station, Bengaluru; an FIR at Chatursthrungi Police Station, Pune; and FIR No.128 of 2022 at Kotwali Police Station, Chhattisgarh. It is further submitted that the applicant was earlier arrested in a similar case registered with CID, Ranchi. These instances reveal a repeated pattern of criminal deceit and breach of trust across different jurisdictions.

6. It is further brought to the Court's notice that one witness, namely, Nitin Nanu Chatoth, has given a statement before the Investigating Officer implicating the applicant. However, the applicant allegedly threatened the said witness not to depose in the matter. The Sessions Court, while rejecting the earlier bail application, has also taken note of this aspect. It is further submitted that co-accused Dipesh Thakkar has stated before the Investigating Officer that he had returned an amount of Rs.1.72

crore belonging to the complainant to the applicant, but the applicant failed to remit the same to the complainant. On these grounds, the complainant has prayed for rejection of the application.

7. Learned APP has opposed the application on the ground that despite issuance of notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, on 19 February 2025, the applicant failed to appear before the Investigating Officer. It is stated that the applicant, being an authorised signatory of M/s. Wardwiz India Solutions Pvt. Ltd., operated its bank account and had addressed a letter dated 24 November 2024 acknowledging the receipt of Rs.8,77,80,205 from the complainant. The applicant had also issued two cheques towards partial settlement of the investment. The prosecution contends that the applicant dishonestly siphoned off the funds invested by the complainant and had fraudulent intent since inception. The investigation is at a crucial stage, and further inquiry is necessary to trace the money trail and identify other persons involved. It is alleged that the applicant has not cooperated with the investigation. The prosecution submits that custodial interrogation is essential for effective investigation, and therefore, the application deserves to be rejected.

8. Having heard learned counsel for the applicant, learned counsel for the complainant, and the learned APP, and upon perusal of the record, the following reasons arise for consideration while deciding the present application under Section 438 of the Code of Criminal Procedure.

9. The allegations against the applicant are of serious nature involving criminal breach of trust and cheating of a large amount exceeding Rs.10 crore. The material placed on record prima facie indicates that the applicant, along with other co-accused, induced the complainant to invest a substantial sum under the pretext of granting distributorship in multiple States and in Nepal. The inducement was accompanied by assurances of business expansion and returns, which did not materialize.

10. The documents collected during investigation, including the letter dated 24 November 2024 signed by the applicant acknowledging receipt of Rs.8,77,80,205, and the issuance of cheques in favour of the complainant, lend prima facie support to the prosecution case that the applicant had an active role in the financial dealings. The nature of the transactions, coupled with the subsequent default and failure to return the principal amount, indicate dishonest intention at the inception of the transaction.

11. The record further reveals that the co-accused, namely, Dipesh Thakkar, in his statement to the Investigating Officer, has categorically stated that an amount of Rs.1.72 crore was handed over by him to the applicant. However, the said amount was never returned to the complainant. This circumstance, at the present stage, supports the prosecution version that the applicant diverted funds received from the complainant.

12. The statement of the witness, Nitin Nanu Chatoth, shows that the applicant threatened him not to cooperate with the investigation. The Sessions Court, while rejecting the earlier bail application, has also recorded a finding regarding the said threat. Such conduct prima facie reflects an attempt to influence witnesses and obstruct investigation.

13. The prosecution has also placed on record that multiple FIRs have been registered against the applicant in different States for similar offences involving inducement and misappropriation of investors' funds. These include FIRs registered in Bengaluru, Pune, Chhattisgarh, and Ranchi. The multiplicity of such offences across jurisdictions indicates a consistent pattern of criminal conduct. This aspect cannot be ignored at the stage of considering pre-arrest bail.

14. The applicant has failed to appear before the Investigating Officer despite issuance of notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita on 19 February 2025. The non-cooperation of the applicant with the investigation further militates against the grant of anticipatory bail. The applicant's conduct shows unwillingness to submit to lawful investigation.

15. The contention of the applicant that he is willing to settle the dispute cannot be accepted as a ground for grant of anticipatory bail. The nature of the allegations and the material collected reveal that the dispute is not merely civil in nature but involves fraudulent inducement and misappropriation of public funds. The offer of settlement at this stage cannot efface the gravity of the offence or the element of criminal intent.

16. The investigation is at a crucial stage. The Investigating Officer has yet to trace the money trail, identify beneficiaries, and verify the diversion of funds to other entities such as V.T. Infra. The custodial interrogation of the applicant appears necessary for effective investigation and recovery of incriminating material. Granting pre-arrest bail at this stage would seriously hamper the investigation and may frustrate the process of law.

17. In view of the nature and gravity of accusations, the magnitude of the alleged fraud, the applicant's conduct in evading investigation and influencing witnesses, and the existence of similar criminal antecedents, this Court finds no ground to exercise discretion in favour of the applicant under Section 438 of the Code of Criminal Procedure.

18. Hence, the application for anticipatory bail is rejected.

(AMIT BORKAR, J.)